



LEGAL ETHICS AND PROFESSIONALISM

BRIDGE NUMBER 2

Organizing Committee

**Hon. Rosalie Abella
Hon. Robert Armstrong
Kirby Chown
Hon. Stephen Goudge
Hob. Michel Proulx
Professor Lorne Sossin**

January 2003

**Faculty of Law
University of Toronto**

**These materials are intended for the sole educational use of students at the
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FACULTY OF LAW
UNIVERSITY OF TORONTO

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Legal Ethics and Professionalism Bridge
University of Toronto, Faculty of Law
January 6-10, 2003

Organizing Committee

Justice Rosalie Abella
Justice Robert Armstrong
Ms. Kirby Chown
Justice Stephen Goudge
Justice Michel Proulx
Professor Lorne Sossin

Themes

This bridge week is intended to explore two central themes: first, the bridge will explore the diverse professional ideals which shape advocacy, the pursuit of justice and legal practice; second, the bridge will explore the ethical challenges which confront lawyers in various practice settings and how these challenges may be resolved. While the aim of the week is not to reach particular conclusions on the topics covered, our hope is that students will be exposed to, and have opportunities to discuss, some of the central trends, tensions and controversies shaping the legal profession.

PROGRAMME

Monday, January 6, 2003

Welcome & Introduction to the Bridge, 1:30-2:00pm: Professor Lorne Sossin

Visions of the Profession in Practice, 2:00-4:00pm

Chair: Professor Lorne Sossin

Robert Charney (Bob Charney is a senior litigator with the Constitutional Law Branch of the Ontario Ministry of the Attorney General),

Janine Benedet (Janine Benedet is an Assistant Professor at Osgoode Hall Law School),

Chris Bredt (Chris Bredt is a senior litigator with Borden Ladner Gervais)

Jill Copeland (Jill Copeland is a criminal defence lawyer with Ruby & Edwardh

Fay Faraday (Fay Faraday is a union-side labour lawyer with the firm of Cavaluzzo Hayes)

Julia Hanigsberg (Julia Hanigsberg is counsel to the Secretary of Cabinet for the Government of Ontario)

Martha McCarthy (Martha McCarthy is a family lawyer with Epstein Cole)

Trevor Shaw (Trevor Shaw is a Crown Attorney with the Ontario Ministry of the Attorney General)

Tuesday, January 7, 2003

Ethical Challenges in a Diverse Profession, 10:00-12:00pm

Chair: Kirby Chown (McCarthy Tetrault)

Perspectives of a Public/Gov't Lawyer: Janet Minor

(Janet Minor is a senior litigator with the Constitutional Law Branch of the Ontario Ministry of the Attorney General)

Perspectives of a Criminal Lawyer: Alan Gold

(Alan Gold is a leading criminal defence lawyer with Gold & Fuerst)

Perspectives of a Civil Litigator: Patricia Jackson

(Trisha Jackson is a litigator with Torys)

Perspectives of a Corporate Lawyer: Clay Horner

(Clay Horner is a corporate lawyer with Osler, Hoskin and Harcourts)

Perspectives of a Family Lawyer: Phillip Epstein, Q.C.

(Phil Epstien is a family lawyer with Epstein Cole and past bencher of the Law Society)

Lawyers Responsibility to Clients & Access to Justice, 1:30-3:30pm

Chair: Justice Bob Armstrong (Ontario Court of Appeal)

Marion Boyd (Marion Boyd is a former Attorney General for Ontario and is a life bencher with the Law Society)

Edward Greenspan (Edward Greenspan, Q.C. is a leading criminal defence lawyer with Greenspan White)

Alan Hutchinson (Alan Hutchinson is a Professor at Osgoode Hall Law School and author of *Legal Ethics and Professional Responsibility* (Irwin 1999))

Gavin McKenzie (Gavin MacKenzie is a lawyer with Heenan Blaikie, and author of *Lawyers and Ethics: Professional Responsibility and Discipline* (Carswell 1993))

Wednesday, January 8, 2003

Lawyers Responsibility to Society, 10:00-12:00pm

Chair: Judith McCormick (Executive Director, Downtown Legal Services)

Lenny Abramowicz (Lenny Abramowicz is Executive Director, Association of Community Legal Clinics of Ontario)

Raj Anand (Raj Anand is a lawyer with Weir Foulds and a Vice President of Pro Bono Ontario)

Julian Falconer (Julian Falconer is a lawyer with Falconer Charney Macklin)

Pam Shine (Pam Shine is National Director of Pro Bono Students Canada)

Keynote Address, 1:30-2:00pm: Bob Rae (Bob Rae is a former Premier of Ontario and a lawyer with Goodman Phillips Vineberg)

Clients & Professionalism, 2:10-3:00pm

Lorne Sossin (University of Toronto) & Justice Rosalie Abella (Ontario Court of Appeal)
(panel of clients tba)

The Rules of Professional Conduct, 3:10-4:00pm

Interactive presentation on the Rules of Professional Conduct from the Law Society

Thursday, January 9, 2003

Ethical Touchstones & Criminal Law, 10:00-12:00pm

Chair: Justice Michel Proulx (Quebec Court of Appeal)

Marie Heinen, (Marie Heinen is a criminal defence lawyer)

David Layton (David Layton is a criminal defence lawyer with Shiller, Layton and Arbuck and author (with Michel Proulx) of *Ethics and Canadian Criminal Law* (Irwin 2001))

John McMahon (John McMahon is a senior Crown Attorney with the Ontario Ministry of the Attorney General) -

Ethical Touchstones & Corporate Law, 1:30-3:30pm

Chair: Justice Stephen Goudge (Ontario Court of Appeal)

Susan Wolburgh-Jenah (Susan Wolburgh-Jenah is a lawyer with the Ontario Securities Commission)

Other panellists tba

Wrap Up, 3:30-4:00pm

MATERIALS

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Visions of the Profession in Practice

Christopher Moore, *The Law Society of Upper Canada* (Toronto: University of Toronto Press);pp. 1-8

Deborah Rhode, "The Advocate's Role in the Adversary System" in *In The Interests of Justice: Reforming the Legal Profession* (Oxford: Oxford University Press, 2000);pp.9-26

Robert Gordon, "A Profession in Paralysis" (2002) 54 Stanford Law Review 1427;pp. 27-38

Sharon Dolovich, Colloquium: "What Does it Mean to Practice Law "In the Interests of Justice" in the Twenty-First Century? Lawyering and the Possibility of Integrity" (2002) 70 Fordham L. Rev. 1629;pp. 39-92

Harry W. Arthurs, "Lawyering in Canada in the 21st Century" (1996) 15 Windsor Yearbook of Access to Justice 202;pp. 93-104

Justice Rosalie Abella, "Professionalism Revisited" (Opening Address, Benchers' Retreat, October 14, 1999);pp. 105-115

Roger Cramton, "The Last Class: Living a Good Life as a Lawyer" (2000) Cornell Law Forum;pp. 116-120

Ethical Challenges in a Diverse Profession

Deborah MacNair, "The Role of the Federal Public Sector Lawyer: From Polyester to Silk" (2001) 50 UNB LJ 125;pp. 121-141

Adam Dodek, "Canadian Legal Ethics: A Subject in Search of Scholarship" (2000) 50 University of Toronto Law Journal 115;pp. 142-151

Gavin MacKenzie, "The Valentine's Card in the Operating Room: Codes of Ethics and the Failing Ideals of the Legal Profession" (1996) 34 Alberta L. Rev.;pp. 152-160

Geoffrey C. Hazard Jr., "Is There an American "Legal Profession" (2002) 54 Stanford L. Rev. 1463;pp. 160-165

Alan Hutchinson, "An Alternative Vision: A Contextual and Pragmatic Approach" in *Legal Ethics and Professional Responsibility* (Toronto: Irwin, 1999);pp. 166-176

Gavin MacKenzie, *Lawyers and Ethics* (Toronto: Carswell, 1998), ch. 7;pp. 177-181

Lawyers Responsibility to Clients & Access to Justice

R. v. Neil 2002 SCC 70;pp. 182-195

Gavin MacKenzie, *Lawyers and Ethics* (Toronto: Carswell, 1998), ch. 4;pp. 196-207

Edward L. Greenspan and George Jonas, *Greenspan: The Case for the Defence* (Toronto: MacMillan), ch. 15;pp. 208-213

Alan Dershowitz, "Defending the Offensive: Judging Who Deserves Representation is Dangerous" (Washington Post, 1997);pp. 214-216

Ronald Goldfarb, "Guilt by Association: Lawyers Should be Judged by the Clients they Keep" (Washington Post, 1997);pp. 217-218

Lawyers Responsibility to Society

Justice J.C. Major, "Lawyer's Obligation to Provide Legal Services" (1995) 32 Alberta L. Rev.;pp. 219-224

Tanina Rostain, "Colloquium: What Does it Mean to Practice Law "In the Interests of Justice" in the Twenty-First Century? Lawyering and the Possibility of Integrity" (2002) 70 Fordham L. Rev. 1811;pp. 225-236

Reed Elizabeth Loder, "Tending the Generous Heart: Mandatory Pro Bono and Moral Development" (2001) 14 Georgetown J. of Legal Ethics 459;pp. 237-262

Rob Atkinson, "Historical Perspectives on Pro Bono Lawyering: A Social-Democratic Critique of Pro Bono Publico Representation of the Poor: The Good as the Enemy of the Best" (2001) 9 American University J. of Gender, Social Policy & Law 129;pp. 263-301

The Rules of Professional Conduct

For this session, please bring the Law Society's Rules of Professional Conduct, which for most of you was included in your Legal Process course supplement – it is also available from the Law Society's website at www.lsuc.on.ca

Ethical Touchstones & Criminal Law

Problems: Incriminating Physical Evidence;.....pp. 302-304

Kent Roach, "Smoking Guns: Beyond the Murray Case" (2000) 43 C.L.Q. 409;
.....pp.305-306

Justice Michel Proulx and David Layton, *Ethics and Canadian Criminal Law* (Toronto: Irwin, 2001), ch. 9;pp. 307-331

Ethical Touchstones & Corporate Law

Various Articles About Enron;pp. 332-346

Sarbanes-Oxley Act, Public Law 107-204, 107th Congress, 2002;
.....pp. 347-360

Correspondence between Vern Krishna, Q.C., Treasurer of the Law Society and David Brown, Chair of Ontario Securities Commission;.....pp. 361-365

Tanina Rostain, "Pockets of Professionalism" (2002) 54 Stanford Law Review 1475;
.....pp. 366-374

William Powers Jr., "Executive Summary" *Report to the Board of Enron From the Special Investigation Committee*, February 2002.....pp. 375-403